



# **Montana SBIR/STTR Matching Funds Program Guidelines**

## **Montana Department of Commerce**

### **Introduction**

The purpose of the Montana SBIR/STTR Matching Funds Program is to foster job creation and economic development in the state by providing matching grants to eligible businesses meeting the criteria set forth in these guidelines.

The Montana SBIR/STTR Matching Funds Program is designed to award grant funds to Montana companies that have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (Federal SBIR/STTR Program) Phase I award and that, if the opportunity to do so is available, intend to apply for a Federal SBIR/STTR Program Phase II award.

The Federal SBIR/STTR Program provides for funding competitions in two phases that are relevant to the Montana Program: Phase I – to conduct feasibility research; and Phase II – to expand and develop Phase I results and develop commercially viable innovations.

The Montana Department of Commerce (Department) administers the Montana SBIR/STTR Matching Funds Program in the manner set forth in these guidelines. In all cases, awards will be made at the discretion of the Department.

### **Award Structure and Milestones**

1. Applications will be considered, and funds awarded, as established in these guidelines until the funds available for the Montana SBIR/STTR Matching Funds Program have been exhausted.
2. Subject to the satisfaction of all other requirements, match awards will be disbursed in two stages:
  - a) Stage 1 – 50% of the total match award will be disbursed when applicant meets all of the Stage 1 requirements.

- b) Stage 2 – The remaining 50% of the total match award will be disbursed when applicant meets all of the Stage 2 requirements.
- 3. So long as funds remain available, for each approved application, total match awards will be \$30,000. The Department will approve no more than one application for funding per company per state fiscal year.
- 4. Companies that have been awarded a Federal SBIR/STTR Program Phase I award no earlier than July 1, 2011 are eligible applicants for the Montana SBIR/STTR Matching Funds Program.

### **Stage 1 Application Requirements**

All required information for a Stage 1 application must be submitted electronically. Applicants must submit items 1 through 12 below in a single submission to be considered for a grant. Submissions should be emailed to [jtodd@mt.gov](mailto:jtodd@mt.gov).

- 1. Name of the business. (MCA 90-1-119 (4)(a))
- 2. Applicant must be a for-profit sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation registered with the Montana Secretary of State. Provide a Certificate of Existence or a Certificate of Fact issued by the Montana Secretary of State to meet this requirement. (MCA 90-1-118 (1))
- 3. The company must have its principal place of business in Montana. Certify that this requirement is met. (MCA 90-1-118 (1))
- 4. Names and addresses of the principals or management of the business. (MCA 90-1-119 (4)(a))
- 5. Provide documentation that the company has received a SBIR or STTR Phase I award from a participating Federal agency in response to a specific federal solicitation (MCA 90-1-118 (2)). The date of the notice of award must be no earlier than July 1, 2011 to be eligible.
- 6. Provide a statement that the company is not concurrently receiving funding from other Montana state funding programs whose purpose is to provide matching grants to businesses receiving funding from Federal SBIR or STTR programs. (MCA 90-1-118 (4))
- 7. The business certifies that at least 51% of the research described in any proposal for Phase II funding is to be conducted in Montana and that the business will remain a Montana-based business for the duration of the Phase II project. (MCA 90-1-118 (5))
- 8. The business demonstrates an ability to conduct research for the Phase II proposal. (MCA 90-1-118 (6))

9. The business states intent to apply for a Phase II proposal provided that such an opportunity to do so is available. (MCA 90-1-117 (1))
10. Provide an itemized budget, a justification for each line of the budget, and a detailed narrative describing the objectives for which Stage 1 funding will be used. Department funds must be used to help the company complete the SBIR/STTR Phase I project, prepare and submit a Phase II proposal, or otherwise assist the company in the eventual development of a product or service related to the Phase 1 award. Applicants must use the attached Stage 1 budget form.
11. Provide a copy of a fully executed grant agreement/contract for the Phase I award with the participating Federal agency, or other documentation showing that the participating Federal agency has begun to make project payments. (MCA 90-1-119 (4)(b))
12. Provide the date when the Phase I project is scheduled to end.

## **Stage 2 Application Requirements**

Only Stage 1 grant recipients are eligible for Stage 2 disbursements. Applications for Stage 2 funding must be received by the Department no later than 90 days after the scheduled end date of the Phase I project, unless the participating Federal agency is operating on a schedule that does not require submission of Phase II proposals during the 90 day period. If this is the case, the applicant must notify the Department of this fact during the 90 day period and explain why an extension to the 90 days should be granted. All required information for a Stage 2 application must be submitted electronically. Applicants must submit items 1 through 3 below in a single submission to be considered for the remaining 50% of the total match award. Submissions should be emailed to [jtodd@mt.gov](mailto:jtodd@mt.gov).

1. The company must provide evidence that the Phase I final report was received and accepted by the Federal SBIR/STTR agency, that the terms of the SBIR/STTR Phase I grant agreement/contract between the company and the participating Federal agency were satisfactorily met by the company, and that the Phase II proposal has been submitted to and received by the participating Federal agency. Such evidence must include:
  - a) A copy of the Phase I final report. (MCA 90-1-119 (3)(b))
  - b) Verification of the final payment to the company under the Phase I contract, or documentation showing that all of the Phase I funds have been drawn down. In the event that final payment is pending, a letter from the relevant Federal agency documenting the company's successful completion of the Phase I contract, including a statement of eligibility for final payment, may be substituted.
  - c) Proof that the Phase II proposal has been submitted to and accepted by the participating Federal agency within the eligibility period. An example of this

would be written or electronic notification from the agency confirming date of proposal receipt. (MCA 90-1-119(3)(b))

- d) A copy of the Phase II proposal. (MCA 90-1-119(3)(b))
- 2. If the participating Federal SBIR/STTR agency requires that the Phase I awardee receive an invitation to submit a Phase II application, a copy of the invitation must be submitted to the Department. If the participating Federal SBIR/STTR agency does not require that the Phase I awardee receive an invitation to submit a Phase II proposal, the company must so inform the Department. (MCA 90-1-119 (3)(b))
- 3. Provide an itemized budget, a justification for each line of the budget, and a detailed narrative describing the objectives for which Stage 2 funding will be used. Department funds must be used to help the company complete the SBIR/STTR Phase II project or otherwise assist the company in the eventual development of a product or service related to the Phase II award. Applicants must use the attached Stage 2 budget form.

### **Application Submission and Review**

Applications will be reviewed to determine compliance with the requirements of these guidelines. To qualify for funding, applications must be complete and in full compliance with all requirements. Incomplete or non-compliant applications may be dropped from consideration. At its discretion the Department may request supplemental materials from the applicant and such materials must be received within 15 days of the date of the request or the application may be rejected.

Applications that meet all requirements set forth in these guidelines for Stage 1 funding may be approved for funding, at the discretion of the Department, on a rolling, first-come first-served basis until the funds available for the Montana SBIR/STTR Matching Funds Program have been exhausted.

### **Confidentiality and Non-Disclosure Agreement**

Once information is submitted to the Department, the information is subject to the public's right to know pursuant to Article II, Section 9 of the Montana Constitution. Written information is subject to the right of citizens to inspect and copy pursuant to §2-6-102, MCA, unless there is an individual privacy interest that clearly exceeds the merits of public disclosure. Public disclosure may also negatively impact an applicant's ability to protect its intellectual property by patent or other legal means.

Upon submission of any potentially confidential information, the applicant may enter into a confidentiality and non-disclosure agreement with the Department and provide an affidavit so

that there is a clear understanding of the rights and obligations of the applicant relative to protection of sensitive information in Montana. Please use the attached confidentiality and non-disclosure agreement, and affidavit.

**For additional information, contact:**

David P. Desch  
Montana Department of Commerce  
301 S. Park Avenue – Suite #122 – Helena, MT 59601  
P.O. Box 200501 - Helena, MT 59620  
Phone (406) 841-2760/ (406) 841-2759  
Fax (406) 841-2761  
ddesch@mt.gov  
jtodd@mt.gov

**Montana SBIR/STTR Matching Funds Program**  
**Budget – Stage 1**

<b>Budget Item</b>	<b>Award Funds</b>
Salaries	
Payroll Benefits	
Repair and Maintenance	
Travel	
Communications	
Contracted Services	
Supplies and Materials	
Rent	
Equipment	
Subcontracts	
Other (Identify)	
Facilities and Administrative Costs	
<b>Total</b>	<b>\$</b>

**Provide justification for each budget line item.**

**Provide a detailed narrative describing the objectives for which Stage 1 funds will be used.**

**Montana SBIR/STTR Matching Funds Program**  
**Budget – Stage 2**

<b>Budget Item</b>	<b>Award Funds</b>
Salaries	
Payroll Benefits	
Repair and Maintenance	
Travel	
Communications	
Contracted Services	
Supplies and Materials	
Rent	
Equipment	
Subcontracts	
Other (Identify)	
Facilities and Administrative Costs	
<b>Total</b>	<b>\$</b>

**Provide justification for each budget line item.**

**Provide a detailed narrative describing the objectives for which Stage 2 funds will be used.**

**MONTANA DEPARTMENT OF COMMERCE  
MONTANA SBIR/STTR MATCHING FUNDS PROGRAM**

**CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is made as of the (day) day of (month), (year), by and between (Name of Applicant) (“Applicant”) and its affiliates and the Montana Department of Commerce (“MDOC”) and its affiliates.

WHEREAS, the MDOC has requested and/or may request verbal and written information from Applicant and its affiliates regarding the Applicant and certain of its affiliates and Project (including without limitation the proposed (Project Description) to be located in (name of City, Town, or County), Montana incident to discussions concerning one or more possible grants for the benefit of Applicant. The MDOC will accept a copy of the Application and any supporting documentation submitted by Applicant.

NOW, THEREFORE, in consideration of the premises and the disclosure of such information, each Party hereby, intending to be legally bound, agrees to the following provisions:

1. Applicant understands and agrees that, pursuant to the Montana Supreme Court’s decision in *Great Falls Tribune v. Public Service Commission*, 319 Mont. 38, 82 P.3d 876 (2003), all documents filed with the MDOC by Applicant are presumptively available for access by the public under the “right to know” provision of Article 2, Section 9 of the Montana Constitution. Under the decision, however, the presumption that all documents filed by Applicant with the MDOC are public may be overcome by the proper showing, consistent with the court’s decision.
2. If Applicant submits documents or information to the MDOC that it considers confidential and wishes the documents or information to be withheld from public disclosure, it will identify which part of the documents or information it considers confidential at the time the documents or information are submitted. Applicant will identify the confidential items through an affidavit that clearly states the facts upon which it believes the documents or information should be withheld from public disclosure. The stated facts must be specific enough so that reviewing authorities can clearly understand the nature and basis of Applicant’s claims to the right of confidentiality. A statement that all documents or information submitted by Applicant are confidential, or other conclusory statements, will be ineffective to prevent public disclosure. Applicant understands and agrees that the affidavit it submits is subject to public disclosure.
3. If individual documents or information are not specified as confidential or the affidavit is factually insufficient to support confidentiality, the MDOC will deem the documents or information submitted as subject to public disclosure.
4. The MDOC will take reasonable steps to protect documents or information designated as confidential and for which Applicant submitted an affidavit clearly stating the factual basis for the claim of confidentiality. Upon receiving a written request from a third party to review any confidential documents or information, the MDOC will notify Applicant of the request in



writing. The written notice provided by MDOC will enclose a copy of the third party request. The written notice and third party request will be sent by U.S. mail and by fax to the following addresses and fax numbers:

To (Name of Applicant): (Applicant Address)  
Attention: (Name of Contact)  
Fax #: (Fax Number)

with a copy to: (Address)

(If required) Attention: (Name of Contact)  
Fax #: (Fax Number)

5. It is the responsibility of Applicant upon receipt of the written notice from MDOC to take such action as is necessary to protect the documents or information from disclosure, including obtaining a court order protecting the documents or information from disclosure if necessary. If the MDOC does not receive an order from a court of competent jurisdiction ordering the MDOC to maintain confidentiality of the requested information or the MDOC is not notified of other arrangements made between Applicant and the requesting party within 10 days from the date of the written notice by the MDOC to Applicant of the third party request, the information will be disclosed to the requesting party, notwithstanding the affidavit. The MDOC will not assert the right of confidentiality for Applicant in any court, whether sitting at law or in equity.

6. Applicant agrees that in the event MDOC discloses documents or information in accordance with the provisions of this Agreement, Applicant will not assert any claim, liability, demand, or cause of action against MDOC for a violation of any confidentiality interest, including - but not limited to the Applicant's ability to obtain protection of any intellectual property, in any documents or information that it has submitted to MDOC.

7. Applicant agrees to defend, indemnify, and save harmless the MDOC against and from any and all claims, liabilities, demands, causes of action, judgments, damages, and losses, including costs and attorneys' fees associated with any action for release of documents or information submitted to MDOC by Applicant, whether such action is brought in the name of Applicant or a third party.

8. The MDOC may be required by federal and state regulations and laws to provide access to state and federal audit and monitoring officials in order to document compliance with applicable state and federal regulations and laws. In the event and to the extent access to information provided to the MDOC by Applicant related to the grant program and otherwise subject to this Agreement is requested by federal or state auditors, Applicant agrees that the MDOC may

disclose such information to such auditors, provided that (a) such information is used only by such auditors for the purposes set forth in the previous sentence, and for no other purposes whatsoever; and (b) such information in the possession of or otherwise disclosed to such auditors shall remain subject to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

(Name of Applicant)

By:\_\_\_\_\_

Name: (Name)

Title: (Title)

MONTANA DEPARTMENT OF COMMERCE

By:\_\_\_\_\_

Name: Dore Schwinden

Title: Director

APPROVED BY:

\_\_\_\_\_

Attorney for the Department

## AFFIDAVIT

State of Montana)

: ss.

County of \_\_\_\_\_)

COMES NOW, (**Applicant Official**), being first duly sworn upon his oath, deposes and states as follows:

That he/she is the (**Title**) of (**Applicant**) and offers the following in support of (**Applicant's**) claim of confidentiality for information submitted in support of Applicant's application to the Montana Department of Commerce for funds:

1. I am the (**Title**) of (**Applicant**) and offer the following in support of (**Applicant's**) claim of confidentiality for information submitted to the Montana Department of Commerce.
2. (**Applicant**) claims that the document titled (**e.g., describe specific documents contained in Applicant's Application or Project Proposal**) is confidential and should be withheld from public disclosure as it contains information developed by (**Applicant**) concerning its (**e.g., intellectual property, technical data, or business forecasts and assessments**). This information is consistently maintained by (**Applicant**) as confidential information and if disclosed could prejudice (**Applicant's**) competitive position and could result in financial losses to (**Applicant**).
3. (**Applicant**) claims that portions of the documents titled (**e.g., describe specific documents contained in Applicant's Application or Project Proposal**), including (**describe portions of document that are confidential**), are confidential and should be withheld from public disclosure as they contain information developed by (**Applicant**) concerning its (**e.g., intellectual property, technical data, financial information**). This information is consistently maintained by (**Applicant**) as confidential information and if disclosed could prejudice (**Applicant's**) competitive position and could result in financial losses to (**Applicant**).

\_\_\_\_\_  
(Applicant Official)

This instrument was acknowledged before me on the \_\_\_\_ day of (Month), 201\_ by  
(Applicant Official).

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

Notary Public for the State of \_\_\_\_\_

(Seal)

Residing at \_\_\_\_\_

My commission expires: \_\_\_\_\_